

### **REMARKS/ARGUMENTS**

Prior to entry of this Amendment, claims 1-21 were pending in this application. No claims have been amended and no claims have been added herein. Claims 16-18 have been canceled. Therefore, claims 1-15 and 19-21 are now pending in this application. Applicants respectfully request reconsideration of this application for at least the reasons presented below.

#### **35 U.S.C. § 103 Rejection, Inoue**

The Office Action has rejected claims 1-21 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,729,280 to Inoue et al. (hereinafter “Inoue”). The Applicants respectfully submit that the Office Action does not establish a *prima facie* case of obviousness in rejecting these claims. Therefore, the Applicants request reconsideration and withdrawal of the rejection.

In order to establish a *prima facie* case of obviousness, the Office Action must establish: 1) some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the references or combine their teachings; 2) a reasonable expectation of success of such a modification or combination; and 3) a teaching or suggestion in the cited prior art of each claimed limitation. See MPEP § 706.02(j). However, as will be discussed below, the reference cited by the Office Action does not teach or suggest each claimed limitation.

Inoue “relates to a video signal receiver for a near video-on-demand broadcast system.” (Column 1, lines 7-8.) In one embodiment of Inoue, “the near video-on-demand signal receiver pre-stores the first segment of a desired video program in the buffer memory apparatus.” (Column 8, lines 35-38.) “When a user requests reception and display of the video program, the pre-recorded segment is immediately reproduced and displayed while the receiver scans the channels carrying the program for the remaining segment of the program.” (Column 8, lines 38-42.) “Once a transmission of the remaining segment is found, the corresponding video signals are received, stored, reproduced, and displayed.” (Column 8, lines 42-44.)

Claim 1, upon which claims 2-8 depend, recites in part “recording at least a first segment of each of a first plurality of programs sent from the content provider before any user request for any of the first plurality of programs; detecting the user request for one of the first plurality of programs; recording at least a second segment of each of a second plurality of programs sent from the content provider if the user request is not detected before a stagger period expires; and recording the one of the first plurality of programs if the user request is detected before the stagger period expires.” However, Inoue does not teach or suggest recording at least a second segment of each of a second plurality of programs sent from the content provider if the user request is **not** detected before a stagger period expires. Rather, Inoue only records subsequent segments of a program if the program is selected by the user. (Column 8, lines 35-46, and column 8, line 63, through column 9, line 22.) For at least these reasons, the rejection should be withdrawn and claims 1-8 should be allowed.

Claim 9, upon which claims 10-15 depend, recites in part “determining if any of a first segment of each of a plurality of programs sent from the content provider before any user request for any of the plurality of programs are not already stored.” However, Inoue does not teach or suggest determining if any of a first segment of each of a plurality of programs sent from the content provider before any user request for any of the plurality of programs are not already stored. Rather, the methods for determining whether to pre-store a segment disclosed by Inoue include initiating recording based on a pre-determined time or based on a user selection of a program. (Column 8, lines 47-57.) However, nothing in Inoue teaches or suggests determining if any of a first segment of each of a plurality of programs are not already stored. For at least these reasons, the rejection should be withdrawn and claims 9-15 should be allowed.

Claim 19, upon which claims 20 and 21 depend, recites in part “recording a second segment of the program if the user request is detected before a period expires; and discontinuing the recording of the first segment if the user request is not detected before the period expires, wherein the period is less than a duration of the program.” However, Inoue does not teach or suggest discontinuing the recording of the first segment if the user request is not detected before the period expires. Rather, Inoue records the entire first segment, regardless of

any time limits for user selection. For at least these reasons, the rejection should be withdrawn and claims 19-21 should be allowed.

### **Conclusion**

In view of the foregoing, Applicants believe all claims now pending in this application are in condition for allowance. The issuance of a formal Notice of Allowance at an early date is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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